

Housing and Property Chamber
First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 24(1) OF THE
HOUSING (SCOTLAND) ACT 2006

Chamber Ref: FTS/HPC/RP/23/0558

Re: Flat 2/2, 190 Main Street, Cambuslang, Glasgow, G727EN, being the subjects
registered in the Land Register of Scotland under Title Number LAN21107 ("The Property")

The Parties:-

Mr James Forrester residing Flat 2/2, 190 Main Street, Cambuslang, Glasgow, G727EN ("the
Tenant")

Mr Raymond Sutton, residing at 10 Macarthur Wynd, Cambuslang, Glasgow, G727GA ("the
Landlord")

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal"), having made such enquiries as it saw fit for the purposes of determining
whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of
the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined
that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of
the Act, and has determined to make a Repairing Standard Enforcement Order
("RSEO").

The Tribunal comprised: -

Mr. Andrew Cowan, Legal Member, and
Ms Lorraine Charles, Ordinary Member (Surveyor)

Background

1. By application dated 22nd February 2023 (hereinafter referred to as "the Application")

the Tenant applied to the Tribunal for determination as to whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

2. The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure the House meets the Repairing Standard and, in particular the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

13(1) a. The house is wind and watertight and in all other respects reasonably fit for human habitation;

13(1) b. The structure and exterior of the house (including drains gutters and external pipes) are in a reasonable state of repair and in proper working order;

13(1) c. The installations in the house for the supply of water, gas and electricity and sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;

13(1) h. The house meets the tolerable standard.

3. The Tenant has stated, within the application, details as to why they consider the Landlord has failed to meet the Repairing Standard. The Tenant has intimated to the Landlord a list of defects which they consider the Landlord required to repair in order to bring the Property up to the Repairing Standard. A summary of the issues brought forward by the Tenant, which have been intimated to the Landlord, are:-

a. The roof of the Property requires to be properly repaired to stop water ingress causing dampness and the formation of mould

b. Cracks and holes in the walls in the Property require to be repaired, and

c. The boiler in the Property maintains a maximum level of pressure costing more to run .

4. This application was accepted by the Chamber President on 11th May 2023 and was

referred for the Tribunal's consideration.

5. By letter dated 25th May 2023 issued to both parties the Tribunal advised they would inspect the property , and hold a hearing in relation to the Application, on 14th July 2023. At the request of the Tenant the inspection and hearing were rearranged for a 8th August 2023.

Property Inspection

6. The Tribunal inspected the property on 8th August 2023. The Tenant was present at the time of the inspection The Landlord did not attend the inspection. Photographs were taken during the inspection by the Tribunal. Copies of the photographs taken by the Tribunal are attached as a schedule to this report.

The Hearing

7. A hearing had been intimated to all parties and was held at 8th August 2023 at the Glasgow Tribunal Centre, 20 York Street, Glasgow, G2 8GT.
8. The following parties attended the hearing:
 - a. Mr. James Forrester, the Tenant, and
 - b. Mr. Raymond Sutton, the Landlord
9. At the start of the hearing the Tribunal outlined their observations from their inspection of the property. By reference to the specific list of complaints raised by the Tenant in relation to each room in the property, the Tribunal had noted: -

Lounge

The Tribunal had noted evidence of previous water ingress at the ceiling level of the Lounge. That water ingress had caused damage to the ceiling and the wall of the Lounge. There were large areas of plasterwork missing from the wall.

Using a damp meter, the Tribunal had noted that there were high levels of dampness recorded at ceiling level (at the site where there had been previous water ingress)

Front Bedroom

The Tribunal had noted minor hair line cracking on the plaster walls of the Bedroom at various locations.

Using a damp meter, the Tribunal had noted that there was no evidence of dampness within the front bedroom.

10. The Landlord accepted the Tribunal's observations and did not seek to challenge their views following the inspection.
11. The Landlord explained that in January 2023 scaffolding had been erected on the roof of adjoining property at 186 Main Street, Cambuslang. That scaffolding had also been erected on part of the roof of the tenement in which the Property is located. The installation of that scaffolding had caused damage to the roof tiles of the tenement in which the Property is located. On 31st January 2023 the Property had been subjected to substantial water ingress as a consequence of the damaged roof tiles. This had been the cause of the damage to the ceiling and wall in the Property.
12. The Landlord's explanation accorded with that of the Tenant who had suffered loss and damage to personal items as a result of the water ingress into the Property on 31st January 2023.
13. Both Parties were agreed that by around mid-February 2023 repairs had been carried out to the roof of the tenement in which the Property is located. The Landlord's letting agent had provided the Tenant with photographs of the repairs which had been carried out to that roof.
14. The Landlord further explained that contractors had been instructed to repair the damage to the ceiling and wall of the Lounge, which had been damaged by the previous water ingress. Those contractors had removed sections of damaged plasterwork from the Lounge wall, but, during the course of those works, had identified dry rot in the area of the works. The contractors work was stopped and the Landlord thereafter took steps to identify a suitable contractor that could complete the necessary works to eradicate the dry rot and to thereafter repair the ceiling and wall within the Lounge. By mid-June 2023 the Landlord had obtained two quotes for that work. He has now selected his preferred contractor and is in a position to instruct the necessary works as soon as he is able to make acceptable arrangements with the Tenant as to the commencement of those works. The Landlord accepts that, until that work can be completed the Property does not meet the Repairing Standard.

15. The Tenant accepted that the cracking of the plasterwork in the front bedroom of the Property was superficial and that there was no failure of the Repairing Standard in relation to that matter. The Tribunal did observe, however, that there is poor ventilation within that room of the Property and that further (and more extensive) damage, along with possible dampness, is likely to occur in that room unless appropriate steps are taken to ensure appropriate ventilation is made available.
16. The Tribunal noted that a gas safety inspection had been completed at the property on the 7th August 2023. The Tenant accepted that there were no continuing issues with the boiler at this time. The Landlord undertook to make a copy of the Gas Safety Report available to both the Tenant and the Tribunal.

Findings in Fact

17.

- a) The Landlord and the Tenants are parties to a private residential tenancy agreement in respect of the Property at Flat 2/2, 190 Main Street, Cambuslang, Glasgow, G72 7EN.
- b) The Landlord is the registered Landlord in the Scottish Landlords Register in relation to the Property.
- c) Water ingress has caused damage to the ceiling and the wall of the lounge of the Property. There were large areas of plasterwork missing from the wall.
- d) In the lounge of the Property there are high levels of dampness recorded at ceiling level (at the site where there had been previous water ingress).
- e) The ceiling and walls of the Lounge at the Property, being part of the structure of the Property, are not in a reasonable state of repair and accordingly the Property does not currently meet the Repairing Standard and in particular the Landlord has failed to comply with subsection (b) of Section 13(1) of the Act .

Reasons for Decision

18. Having inspected the Property, the Tribunal were satisfied that the Property did not meet the Repairing Standard in relation to those matters observed by the Tribunal and as narrated at Paragraph 17 above. The Tribunal were not satisfied that there was a failure by the Landlord to comply with the Repairing Standard in relation to the issues raised by the Tenant in relation to the cracking of plasterwork in the front bedroom or in relation to the boiler.

Decision

19. The Tribunal accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
20. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act. In particular the Tribunal determined to require the Landlord to
- (a) Carry out investigations to establish the cause of continuing high dampness readings at ceiling level in the lounge of the Property and to carry out any such works as may be necessary to ensure that there is no continuing water ingress at that area so that it is in a reasonable state of repair and in proper working order and
 - (b) Repair the damaged plaster on the Lounge wall and ceiling so that it is in a reasonable state of repair and in proper working order
21. The Tribunal order that the works specified in the RSEO must be carried out and completed within the period of 6 weeks from the date of service of this Notice.
22. The decision of the Tribunal is unanimous.

Right of Appeal

23. A Landlord, tenant or Tenant aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Right of Appeal

24. In terms of Section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the Decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Chairperson
Andrew Cowan

Date 8th August 2023

Housing and Property Chamber

First-tier Tribunal for Scotland



Prehearing inspection summary and schedule of photographs



Property *Flat 2/2 190 Main St Cambuslang*

Ref No: *REF NO FTS/HPC/RP/23/0558*

Tribunal members *Andrew Cowan Legal Member and Lori Charles Ordinary Member (Surveyor)*

Purpose of inspection

The purpose of the inspection is to prepare a record of the position at the property, specifically as it relates to the items raised in the application and any issues arising therefrom.

Access

The above Tribunal Members attended the property at 10am on 8th August 2023 Also in attendance were James Forrester the Tennant.

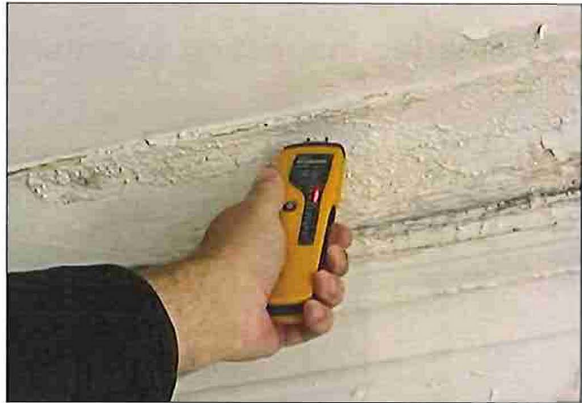
Lori Charles MRICS

Ordinary (Surveyor) Member
First-Tier Tribunal for Scotland
08/08/23

Appendix 1

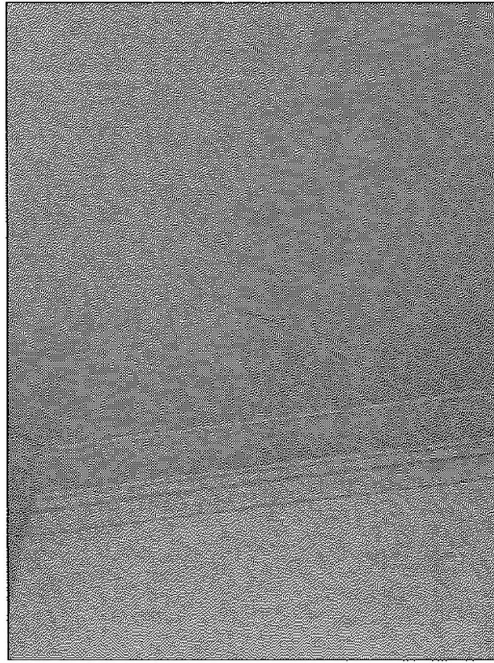
Schedule of photographs taken during the inspection on 08/08/23

LOUNGE



Large sections of plaster have been removed by contractors along the lounge wall and cracks are visible at the kitchen area.
Water staining and damage to the ceiling was visible.
High moisture readings were noted along the cornice and ceiling.

Front facing bedroom



Areas of cracking are visible on the walls and ceiling this appears to be superficial.

The boiler

A Gas safety inspection was carried out on the 07/08/23.